



IFn *AF*
PATENT
32860-001073/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANTS: Klaus ABRAHAM-FUCHS CONF. NO.: 8514
APPL'N NO.: 10/589,560 GROUP: 3626
FILED: August 16, 2006 EXAMINER: Michael Fuelling
FOR: METHOD AND INFORMATION SYSTEM FOR PERFORMING
A CLINICAL STUDY ON A PATIENT

APPELLANTS' REPLY BRIEF UNDER 37 C.F.R. § 41.41

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314
Mail Stop Appeal Briefs - Patents

June 27, 2011

Sir:

In response to Appellants' Brief filed April 11, 2011, the Examiner has issued an Examiner's Answer. Appellants respond to the Examiner's rebuttal as follows.

REMARKS

The Examiners' answer essentially reiterates the rejections as stated in the office action mailed November 10, 2010. Appellant has addressed each of these rejections in the Appeal Brief filed April 11, 2011. Appellants provide the following additional comments.

Claim 1 is directed to a "method for carrying out a clinical study involving a patient."

A clinical study is not merely a medical regimen as disclosed by Brimm as asserted by the Examiner. By contrast, a medical regimen, as described by Brimm, relates to normal patient care as administered by a hospital. For example, Brimm generally discloses a medical information system. The medical information system is used to replace a manual, paper based, record keeping system (e.g., medical charts).

Brown does not remedy at least this deficiency. Brown relates to the subject area of monitoring and treatment of patients ("monitor and manage a health condition").¹ Generally, Brown describes the repeated or continuous recording of measuring values, e.g. the blood sugar level.²

To accomplish this task, Brown discloses an electronic, hand-held device which, in particular, can hold a plug-in module to be used for medical purposes.³ The transfer of measuring values from the device to the physician is achieved, for example, through the integration of a (measuring value) storage

¹ See Brown Abstract.

² See Brown column 1, line 65 - column 2, line 6

³ See Brown column 6, lines 19-65.

unit or memory in a device. The measuring values are then read out of the device by the physician. For this, it is either possible that the patient visits the physician and the physician inserts a storage cartridge into a special reading device,⁴ or the patient data are transmitted telemetrically to the physician (e.g. via modem or fax or the like).⁵ Brown also discloses a so-called return channel from the physician to the patient, designed for the transmission of information from the physician to the patient device, e.g. to adjust prescribed medications. In particular, the complete program code in the patient device can be modified or exchanged.⁶

For at least these reasons,, Brown does not relate to, nor does Brown fairly teach a "method for carrying out a clinical study involving a patient," as required by claim 1.

In addition to the reasons discussed in the aforementioned Appeal Brief, for the reasons described above, Appellant respectfully requests the Board to reverse the Examiner's rejection of claims 1-23.

⁴ See Brown column 9, lines 2-5.

⁵ See Brown column 7, lines 25-32.

⁶ See Brown column 9, lines 29-32.


CONCLUSION

In light of the foregoing remarks, Appellants respectfully request the Board to reverse the Examiner's rejection of claims 1-23.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, PLC

By 
Donald J. Daley, Reg. No. 34,313

P.O. Box 8910
Reston, VA 20195
(703) 668-8000


DJD/EPs:lfb

1205583.1